

LEGISLATIVE STUDY OF THE
SMALL WATER AND SEWER SYSTEMS
IN NORTH CAROLINA

SUBMITTED TO THE
1974 SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY
BY THE

SENATE INTERIM STANDING COMMITTEE
ON NATURAL AND ECONOMIC RESOURCES

AND THE

HOUSE FINANCE SUBCOMMITTEE
SMALL WATER AND SEWER STUDY

JANUARY 1974

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State Legislative Building
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PUBLIC UTILITIES, CHAIRMAN
STATE PERSONNEL, VICE-CHAIRMAN
FINANCE
JUDICIARY II
MANUFACTURERS AND LABOR
WILDLIFE RESOURCES

TO THE MEMBERS OF THE 1973 GENERAL ASSEMBLY:

House Joint Resolution 1184, attached here as Appendix A, of the 1973 General Assembly directed a Legislative study of small water and sewer systems in North Carolina.

Under the co-chairmanship of Senator William W. Staton and Representative James E. Long, a joint committee met four (4) times to consider possible legislation as directed by HJR 1184. Lists of Committee members and witnesses before the Committee are attached as Appendices C and D.

The Joint Committee recommends five (5) bills for your consideration. Copies of these bills together with an explanation of each are attached as part of this report. Three (3) other bills were considered by the Committee, but were not approved. These bills dealt with the requirement of security as a condition of the Certificate of Convenience and Necessity, the requirement of a perpetual care fund, and the requirement to disclose to lot purchasers that they would be served by a small water or sewer utility.

We urge you to review this report and these five (5) bills carefully as they represent important changes for the public being served by small water and sewer utilities.

SENATOR WILLIAM A. STATON

REPRESENTATIVE JAMES E. LONG

EXPLANATION OF
PROPOSED LEGISLATION
RELATING TO THE REGULATION OF
SMALL WATER AND SEWER SYSTEMS
IN NORTH CAROLINA

General Explanation

House Joint Resolution 1184, attached here as Appendix A, of the 1973 General Assembly directed the selection of a Legislative Committee to conduct a study of small water and sewer systems in North Carolina. Many of the problems relating to small water and sewer systems were discussed in the 1970 report of the Legislative Research Commission, which was directed by Senate Resolution 875 of the 1969 General Assembly to study and report on the need for legislation concerning local and regional water supplies. In addition to the problems discussed in that report, the following problems arising from small water and sewer utility systems should be recognized by the Legislative Committee:

The number of small water and sewer companies in North Carolina has been increasing rapidly, making it difficult for the North Carolina Utilities Commission, the State Board of Health, State Planning and Development Regions and other State agencies to maintain proper control over the quality of service being offered. As of July 1, 1973, there

were 225 regulated, nonmunicipal water and sewer utility companies in North Carolina furnishing water service in approximately 500 separate communities or subdivisions and furnishing sewer service in approximately 60 separate communities or subdivisions. Over seventy-five (75%) percent of these utility companies have an average of less than 50 customers per company. Most privately owned water and sewer systems have not adopted the same high standards of design and construction as have municipal systems, and therefore, cannot be readily integrated into municipal systems whenever the service area of the private utility is absorbed into the service area of a municipality. One of the greatest factors inhibiting the effectiveness of Utilities Commission regulation is the reluctance of the Commission to deny a franchise to an existing water or sewer utility operation, or to require any existing water or sewer utility to cease its operations, because to do so would often have the effect of absolutely terminating water or sewer service to the customers involved. The rapid increase in the number of small water and sewer systems, coupled with the lack of Commission manpower, all too frequently results in customers being served by a system prior to the Commission's discovering the operation and assuming jurisdiction, so that any actions taken by the Commission regarding such systems are taken under the danger of causing the customer's only water or sewer service, regardless of how



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poor, to be lost or abandoned. The present enforcement measures available to the Commission generally consist of penalties for failure to comply with the provisions of the Statutes, but such enforcement measures are not effective in emergency situations, defined hereinafter as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof.

Most of the small regulated water and sewer utility companies are operated as subsidiaries of their owner's principal businesses, and the major portion of their capital investment in utility plant is financed through user or consumer contributions in aid of construction. In most cases, the privately financed water and sewer systems in subdivisions are economically feasible only when related to the sale of real estate, in which the lot purchasers finance the systems either directly by means of contributions in aid of construction or indirectly through the purchase price of the lots. After the lots in a subdivision have been sold to the lot purchasers, any additional capital required for further improvements in the water and sewer systems often cannot be obtained by the owner from outside sources, and often the owner may not have enough personal resources to furnish the additional capital needed. The Utilities Commission cannot require continued operation of such a utility system at a loss because it would amount to a confiscation of the owner's

property, so the Commission is often pressured to accept inadequate service, when such service is the only economically feasible service that can be rendered. The Commission cannot require additional capital improvements to be made in a utility system if such improvements are not economically feasible, because this also would be a confiscation of property, so the Commission is often pressured to accept inadequate facilities for providing service, when such facilities are the only economically feasible facilities which can be obtained.

Explanation of Bill No. 1

The present Section 62-116 of the General Statutes provides for granting temporary operating authority while an application for a franchise is pending, but it does not apply to service where no application for a franchise is pending or where the de facto utility simply ceases or abandons its operations or where such utility is not qualified to continue its operations. An amendment to the Statutes which will provide for emergency operating authority to be conferred upon persons other than the utility itself will enable the Commission to appoint a trustee or to obtain outside maintenance service on a 24-hour per day basis as a reasonable third alternative to the present alternatives of either allowing a poor utility operator or an insolvent utility to continue operations or allowing the abandonment of water or sewer service to the customers. The power to grant emergency operating authority would be used in conjunction with the proposed authority to

remove the utility company from the operation of its facilities, contained in Bill No. 3, and in conjunction with the proposed authority to restrict the facilities to continued use in furnishing the utility service, contained in Bill No 2.

Explanation of Bill No. 2

The present Section 62-118 of the General Statutes provides the Utilities Commission the authority to allow abandonment of service when contained operation is not economically feasible, but it does not prevent abandonment of service when the utility company simply ceases to operate its facilities, creating an emergency, as defined above. An amendment to the Statutes which will provide the Commission and the Courts with power to restrict the facilities of a utility to continued use in furnishing the utility service would enable the Commission and the Courts to remove a utility company from operation of its facilities in an emergency and to grant emergency operating authority to other willing and able persons without having to follow the time-consuming process of condemnation. The authority to restrict the facilities of a utility to continued use in furnishing the utility service would be used in conjunction with the authority proposed in Bills No. 1 and No. 3. Specifically, under the proposed authority in Bill No. 2, the Commission could set rates which would include reasonable compensation for the emergency operator.

The present Section 62-118 of the General Statutes authorizes the Commission to allow abandonment of service when continued service is not economically feasible, but the section may not authorize the Commission to allow abandonment of service to certain individual customers who refuse to participate in and help pay for capital improvements which will make continued service to all customers economically feasible, in situations where such service otherwise would not be feasible. An amendment to the present statutes is needed which would authorize the Commission to allow abandonment of service to those customers who do not participate in emergency capital improvements to a water or sewer system when such improvements are necessary in order to make continued service economically feasible. This would enable the water or sewer utility to obtain emergency financing from the customers as an alternative to abandonment, and would protect those customers participating in such emergency financing from having to carry the burden of other customers who do not participate in the emergency financing.

Explanation of Bill No. 3

The present Sections 62-310 through 62-326 of the General Statutes provide fines as penalties for violation of the public utility laws or the Commission's rules, but do not prevent a utility from continuing to violate the statutes

or rules when the sole alternative to such continued violation would be a complete loss of service. An amendment to the Statutes which will provide for judicial enforcement of Commission orders removing a utility company from operation of its facilities during an emergency would enable the Commission to grant emergency operating authority to other persons whenever necessary to relieve an emergency situation. The authority to obtain judicial enforcement of Commission orders removing a utility company from operation of its facilities would also give the Commission and the Courts another alternative to the penal enforcement measures now contained in the Statutes. The authority proposed herein would be used in conjunction with the authority proposed in Bill No. 1 and Bill No. 2.

Explanation of Bill No. 4

The rapid increase in the number of regulated water and sewer utility companies is causing the Utilities Commission to spend an excessive amount of time dealing with the rates and customer service being offered by these companies. Twenty-seven (27%) percent of the formal hearings before the Commission in 1971 involved water and sewer utilities, as did thirty-four (34%) percent of the formal hearings in 1972, even though the total 1972 revenues collected by all regulated water

and sewer utilities in North Carolina was less than three million dollars (\$3,000,000) as compared to the total 1972 revenues of the electric, gas, and telephone utilities in North Carolina which exceeded one billion dollars (\$1,000,000,000).

The present Section 62-81 of the General Statutes requires a full Commission hearing on matters declared to be general rate cases pursuant to Section 62-137, but general rate cases involving the many small utility companies take up valuable time which the full Commission should be devoting to cases involving the larger utility companies. An amendment to the present statutes which would allow general rate cases involving small utilities to be heard by less than the full Commission would relieve the burden on the full Commission in hearing such cases.

Explanation of Bill No. 5

It is fundamental that regulation of rates requires the use of some method to determine when rates are within the zone of reasonableness and when they are not. The rate-base method is decidedly not the only one which provides a proper basis for the determination of just and reasonable rates under regulation. In every case, the appropriate method is the one which is best adapted to the economic characteristics of the company involved.

A principal economic characteristic of the traditional public utilities is a low capital turnover ratio. The capital turnover ratio is defined as the gross annual revenues divided by the total capital investment. Traditional public utilities have low capital turnover ratios relative to practically all other industries, which demonstrates their comparatively greater requirements for capital investment in plant and equipment. The use of the individual company rate base recognizes that the business risk of the traditional utilities is a function of capital investment in fixed plant.

However, the individual company rate-base method is not appropriate where the risk element is not principally a function of capital investment. In G. S. 62-146 et seq, the operating ratio method is specified for use in regulation of motor transportation companies. The operating ratio is defined as the annual operating expenses, including depreciation expense and taxes, divided by the gross annual revenues. The operating ratio is more appropriate for motor transportation companies because many motor transportation operations are now characterized by relatively high capital turnover ratios. The higher capital turnover ratio signifies that capital investment in motor transportation companies is smaller in relation to a given volume of business than is the case with the other more traditional utilities. The operating ratio is also more appropriate because of the rapid fluctuation in

the rate base of motor transportation companies due to the relatively short service lives of the operating equipment and the greater competitive risks compared to other utilities. Hence, the business risk of the motor transportation companies is a more meaningful function of their annual expenses than of their capital investment in fixed plant.

By the same analysis, a small water and/or sewer company which is largely reimbursed for the expense of installing its utility plant through receipt of customers' contributions does not have the typical public utility characteristics, for it has a relatively low rate base, and therefore a relatively high rate of capital turnover. Its annual revenues may be several times the capital invested by the company. In such circumstances, enterprise risk is a function of the level of annual expenses and not of the capital invested by the company. Further support for this conclusion is found in the fact that the capital invested by the company is prone to fluctuate widely from year to year as equipment changes are made and as service in various subdivisions is added or abandoned. Wide fluctuations in the capital invested are inherent in these small systems, because items of equipment needing frequent replacement represent a much higher proportion of the total plant value in the small system than in larger systems. The wide fluctuations are also due to the relatively short service life of the utility plant because of the obsolescence inherent in these small systems. Most small water or sewer systems offer

limited service and utilize minimum design standards, and are therefore vulnerable to competition from expanding municipal or regional systems. There is a great deal more competitive risk involved in operation of the small systems than larger systems, because most individual subdivision water or sewer systems are not large enough to be economically sound standing alone, and growth of these systems beyond their subdivision boundaries is very limited and uncertain. The competition between these companies to serve additional subdivisions within a general area tends to prevent many small water or sewer companies from building operations which would be large enough to offset the disadvantages of operating small individual water systems.

Another factor to be considered is the utility company which is fully reimbursed for the expense of installing its utility plant through receipt of customers' contributions of capital. Since customers' contributions of capital are usually excluded from the rate base, the utility therefore has no rate base and is not entitled to a return on the net value of the contributed capital. However, a countervailing inequity arises from the fact that the utility which has no rate base and is therefore not allowed to earn a return is not compensated for the entrepreneurial functions of management and risk taking associated with operation of the utility plant, including any operating losses or additional capital required, whereas the

customers assume no responsibilities or risks whatever with respect to the utility plant. To deprive the utility of any income from its utility operation would be grossly unfair, and would be equivalent to confiscating the utility's property for the exclusive benefit of the customers, and at the same time requiring the utility to gratuitously operate the utility property and assume all of the risks associated with operation of the property.

From the previous discussion it can readily be seen that small water or sewer utilities often have characteristics similar to motor transportation companies, such as a high capital turnover ratio, a relatively unstable rate base, and greater competitive risk. Some small water or sewer utilities also are subject to being deprived of any return for their management of capital contributed by the customers under the rate base method of rate regulation. Accordingly, it is more sound economically to use the operating ratio method in the rate regulation of most small water or sewer utilities and utilities receiving substantial customers' contributions of capital for installing utility plant, rather than to use the rate-base method.

Section 3 of the bill would add a new section (g) to G. S. 62-133. In some of the recreational second-home subdivisions being developed in the State in recent years, the subdivider has had to provide water and sewer service throughout the entire subdivision even though only a few lots have been developed. It has not been economically feasible to finance the creation of a utility by the traditional means of financing - by revenues derived from the sale of utility services.

When a subdivision is opened, utility service must be made available to each lot when it is offered for sale, so that each lot purchaser may be assured that utility service will be available to his lot when he chooses to build his house. To avoid increasing lot prices to finance the utility services, the developers have sought to contract with the lot purchasers to pay an availability fee so long as the lot is undeveloped. At the time the owner builds on his lot, he would then begin to pay the monthly user charge for water and sewer service.

Bill No. 5 would require uniform contracts with all non-users on the subdivision for a uniform availability fee for making utility service available even though not used at the present time. The maximum non-user rate would be established by the contract between the developer and the lot purchaser, but the non-user rate can never exceed the minimum rate to user customers of the utility service as established by the Utilities Commission.

APPENDIX A

RESOLUTION DIRECTING THE STUDY

GENERAL ASSEMBLY OF NORTH CAROLINA
1973 SESSION
RATIFIED BILL

RESOLUTION 97

HOUSE JCINT RESOLUTION 1184

A JOINT RESOLUTION DIRECTING A STUDY OF NORTH CAROLINA SMALL WATER AND SEWER SYSTEMS TO INVESTIGATE AND PROPOSE LEGISLATION TO THE GENERAL ASSEMBLY RELATING TO THE REGULATION OF SMALL WATER AND SEWER SYSTEMS IN NORTH CAROLINA.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The presiding officers of the House and Senate shall select one of the interim standing committees to be working during the upcoming interim period and instruct such committee to conduct a study of North Carolina small water and sewer systems. Such Legislative Committee shall have available for its work the facilities, staff and resources of the Utilities Commission, the State Board of Health, the Office of Water and Air Resources, the State Planning Division of the Department of Administration, the Department of Justice, city and county governments, sanitary districts and the State Planning and Development Regions.

Sec. 2. The Committee shall investigate and study the problems arising from small water and sewer systems serving real estate subdivisions, trailer parks and other areas served by small water and sewer systems located outside of municipal limits and not served by municipal or county or sanitary district water and sewer services, including the resources and ability of said small water and sewer systems to meet adequate health and

sanitary standards, to provide proper maintenance and replacement, to respond to complaints, to continue to provide adequate service to the public after their present physical plants are no longer serviceable, and the means to bring existing substandard systems up to adequate standards, and to propose legislation to the General Assembly to assure safe, adequate and continued service of small water and sewer systems to subdivisions, trailer parks and other areas served by such systems and not having water or sewer service from city or county governments or sanitary districts.

Sec. 3. The Committee to be studying North Carolina Small Water and Sewer Systems shall study and propose legislation on all small water and sewer system matters coming to its attention, including, but not limited to, the following:

(a) Methods for protection of the public buying homes and lots in subdivisions and areas not served by city or county or sanitary district water and sewer service, including requirements for personal notice to each such buyer as to the size and financial resources of the water and sewer utility serving the lot or house sold to such person.

(b) Development of requirements for perpetual care of small water and sewer systems serving areas without city, county or sanitary district water and sewer service, including provisions that owners of small water and sewer companies shall set aside depreciation expenses or other charges into escrow accounts under appropriate perpetual care provisions to insure that said small water and sewer companies shall continue to provide service on a perpetual basis.

(c) Provide procedures for appointment of receivers or trustees of small water or sewer companies that are not financially able to provide adequate water and sewer service to customers of said water and sewer companies, and who have suspended service, or whose franchise as a public utility has been cancelled by the Utilities Commission for cause after notice and hearing, and to provide funding through assessment of customers, or otherwise, for continued operation of said water and sewer companies in the hands of a trustee or receiver, or other appropriate authority.

(d) To establish requirements and programs for the planning of area-wide water and sewer systems, as a part of the planning activities of the official 17 State Planning and Development Regions established under State law.

(e) Regulation of municipal water and sewer services and rate changes into areas outside municipalities with reference to level of services and cost justification and related matters.

Sec. 4. The Committee shall report to the General Assembly in January, 1974. The report shall include investigations and studies and recommendations and proposals for legislation as provided in this act.

Sec. 5. This resolution shall be in full force and effect from and after May 11, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

JAMES B. HUNT, JR.

James B. Hunt, Jr.

President of the Senate

JAMES E. RAMSEY

James E. Ramsey

Speaker of the House of Representatives

APPENDIX B

BILLS
PROPOSED LEGISLATION

Bill No. 1

GENERAL ASSEMBLY OF NORTH CAROLINA
1974 SESSION

H.B. _____

A BILL TO BE ENTITLED
AN ACT CREATING EMERGENCY AUTHORITY TO OPERATE WATER OR SEWER
UTILITY.

The General Assembly of North Carolina do enact:

Section 1. Section 116 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G. S. 62-116 as paragraph (a) under G. S. 62-116 and by adding a new paragraph (b) as follows:

(b) Upon its own initiative, or upon written request by any customer or by any representative of a local or State government agency, and with or without a preliminary hearing, the Commission may grant emergency operating authority to any person to furnish water or sewer utility service to meet an emergency to the extent necessary to relieve the emergency; provided, that the Commission shall find from such request, or from its own knowledge, that a real emergency exists and that the relief authorized is immediate, pressing and necessary in the public interest, and that the person so authorized has the necessary ability and is willing to perform the prescribed emergency service. Upon termination of the emergency, the emergency operating authority so granted shall automatically expire. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof.

(2)

Section 2. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Section 3. This act shall become effective on October 1, 1974.

Bill No. 2

GENERAL ASSEMBLY OF NORTH CAROLINA
1974 SESSION

H.B. _____

A BILL TO BE ENTITLED
AN ACT RESTRICTING THE ABANDONMENT OF SERVICE BY WATER AND
SEWER UTILITY SYSTEMS WITHOUT PRIOR COMMISSION APPROVAL.

The General Assembly of North Carolina do enact:

Section 1. Section 118 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G. S. 62-118 as paragraph (a) under G. S. 62-118 and by adding new paragraphs (b) and (c) as follows:

(b) If any person or corporation furnishing water or sewer utility service under this chapter shall abandon such service without the prior consent of the Commission, and the Commission subsequently finds that such abandonment of service causes an emergency to exist, the Commission shall, unless the owner or operator of the affected system consents, apply to the resident Superior Court Judge of any judicial district where such person or corporation operates, or to any Superior Court Judge holding court in such judicial district, for an order restricting the lands, facilities and rights of way used in furnishing said water or sewer utility service to continued use in furnishing said service during the period of the emergency. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof. The Commission's finding that abandonment of service causes an emergency to exist shall be valid even if the service

(2)

was being furnished without the required Certificate of Convenience and Necessity or if the service was abandoned in order to cease utility operations which were in violations of this chapter. The Court shall have jurisdiction to restrict the lands, facilities, and rights of way to continued use in furnishing said water or sewer utility service by appropriate writ, order or other process restraining their being placed to other use, or restraining their being prevented from continued use in furnishing said water or sewer utility service, by any person, corporation, or their representatives. The Court may, in its discretion, appoint an emergency operator to assure the continued operation of such water or sewer utility service. The Court shall have jurisdiction to require that reasonable compensation be paid to the owner, operator or other party entitled thereto for the use of any lands, facilities, and rights of way which are so restricted to continued use for furnishing water or sewer utility service during the period of the emergency, and it may require the emergency operator of said lands, facilities, and rights of way to post bond in an amount required by the Court. In no event shall such compensation, for each month awarded, exceed the net average monthly income of the utility for the twelve month period immediately preceding the order restricting use.

(c) Whenever the Commission, upon complaint or investigation upon its own motion, finds that the facilities being used to furnish water or sewer utility service are inadequate to such an extent that an emergency as defined in

(3)

§62-118 (b) above 7 is caused to exist, and further finds that there is no reasonable probability of the owner or operator of such utility obtaining the capital necessary to improve or replace the facilities from sources other than the customers, the Commission shall have the power, after notice and hearing, to authorize by order that such service be abandoned or reduced to those customers who are unwilling or unable to advance their fair share of the capital necessary for such improvements. The amount of capital to be advanced by each customer shall be subject to approval by the Commission, and shall be advanced under such conditions as will enable each customer to retain a proprietary interest in the system to the extent of the capital so advanced. The remedy prescribed in this paragraph is in addition to other remedies prescribed by law.

Section 2. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Section 3. This act shall become effective on October 1, 1974.

Bill No. 3

GENERAL ASSEMBLY OF NORTH CAROLINA
1974 SESSION

H.B. _____

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE ENFORCEMENT OF CHAPTER 62 AND OF THE RULES,
REGULATIONS AND ORDERS OF THE UTILITIES COMMISSION.

The General Assembly of North Carolina do enact:

Section 1. Section 310 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G. S. 62-310 as paragraph (a) under G. S. 62-310 and by adding a new paragraph (b) as follows:

(b) If any person or corporation shall furnish water or sewer utility service in violation of any provision of this chapter applicable to water or sewer utilities, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall provide such service in violation of any rule, regulation or order of the Commission, the Commission shall apply to the resident Superior Court Judge of any judicial district where such person or corporation so operates, or to any Superior Court Judge holding Court in such judicial district, for the enforcement of any provision of this chapter or of any rule, regulation or order of the Commission. The Court shall have jurisdiction to enforce obedience to this chapter or to any rule, regulation or order of the Commission by appropriate writ, order or other process restraining such person, corporation, or their representatives from further violation of this chapter or of any rule, regulation or order of the Commission.



(2)

Section 2. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Section 3. This act shall become effective on October 1, 1974.

Bill No. 4

GENERAL ASSEMBLY OF NORTH CAROLINA
1974 SESSION

H.B. _____

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE SETTING OF RATES IN SMALL UTILITY CASES BY
LESS THAN FULL COMMISSION HEARING.

The General Assembly of North Carolina do enact:

Section 1. Section 137 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G. S. 62-137 as paragraph (a) under G. S. 62-137 and by adding a new paragraph (b) as follows:

(b) In matters where the total annual revenue requested or where the total annual revenue increase requested is less than \$50,000, even though all or a substantial portion of the rate structure is being initially established or is under review, the Chairman of the Commission may refer the matter to a division of the Commission or to a Hearing Commissioner or to a Hearing Examiner for hearing.

Section 2. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Section 3. This act shall become effective on
October 1, 1974.

Bill No. 5

GENERAL ASSEMBLY OF NORTH CAROLINA
1974 SESSION

H.B. _____

A BILL TO BE ENTITLED
AN ACT ESTABLISHING GUIDELINES FOR ESTABLISHING CHARGES AND
SETTING RATES OF WATER AND SEWER UTILITIES.

The General Assembly of North Carolina do enact:

Section 1. Paragraph (a) of Section 133 of Chapter 62 of the General Statutes of North Carolina is hereby amended to delete the words "other than motor carriers" and to add in lieu thereof the words "other than motor carriers and certain water and sewer utilities."

Section 2. There is hereby added to Section 133 of Chapter 62 of the General Statutes of North Carolina a new paragraph (f), which shall read as follows:

"(f) In fixing the rates for any water or sewer utility, the Commission may fix such rates on the basis of the operating expenses to the operating revenues, at a ratio to be determined by the Commission. Nothing in this paragraph shall be held to extinguish any remedy or right not inconsistent herewith. This paragraph shall be in addition to other provisions of this chapter which relate to public utilities generally, except that in cases of conflict between such other provisions, this section shall prevail for water and sewer utilities."

Section 3. There is hereby added to Section 133 of Chapter 62 of the General Statutes of North Carolina a new paragraph (g), which shall read as follows:

(2)

"(g) A water or sewer utility may enter into uniform contracts with non-users of its utility service within a specific subdivision or development for the payment by such non-users to the utility of a fee or charge for placing or maintaining lines or other facilities or otherwise making and keeping such utility's service available to such non-users; or such a utility may, by contract of assignment, receive the benefits and assume the obligations of uniform contracts entered into between the developers of subdivisions and the purchasers of lots in such subdivisions whereby such developer has contracted to make utility service available to lots in such subdivision and purchasers of such lots have contracted to pay a fee or charge for the availability of such utility service; provided, however, that the maximum non-user rate shall be as established by contract, except that the contractual charge to non-users of the utility service can never exceed the lawfully established minimum rate to user customers of the utility service.

Section 4. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of law are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Section 5. This act shall become effective upon ratification.

APPENDIX C

MEMBERSHIP

MEMBERSHIP

SENATE INTERIM STANDING COMMITTEE ON NATURAL AND ECONOMIC RESOURCES

Senator William W. Staton, Chairman
Senator Jack L. Rhyne, Vice Chairman
Senator Vernon E. White, Vice Chairman
Senator Gordon Allen
Senator Malcolm W. Butner, Sr.
Senator Alonzo B. Coleman, Jr.
Senator Harold W. Hardison
Senator Hamilton C. Horton, Jr.
Senator Donald R. Kincaid
Senator J. Russell Kirby
Senator Herman A. Moore
Senator George Rountree, III
Senator Kenneth C. Royall, Sr.
Senator William P. Saunders
Senator Lynwood Smith
Senator McNeill Smith
Senator D. Livingston Stallings
Senator Charles H. Taylor

HOUSE FINANCE SUBCOMMITTEE - SMALL WATER AND SEWER STUDY

Representative James E. Long, Chairman
Representative E. Graham Bell
Representative David Blackwell
Representative Robert Z. Falls
Representative William M. Fulton
Representative Marshall Hall
Representative Thomas B. Hunter
Representative Richard S. James
Representative James T. Mashburn
Representative W. Frank Redding, III
Representative J. Guy Revelle, Sr.
Representative Art Thomas
Representative Barney P. Woodard
Representative Homer E. Wright, Jr.

APPENDIX D

LIST OF ENDORSERS AND PARTICIPANTS AT THE MEETINGS

LIST OF ENDORSERS AND PARTICIPANTS AT THE MEETINGS

Mr. Ed Hipp, Commission Attorney
North Carolina Utilities Commission

Mr. Bob Page, Assistant Commission Attorney
North Carolina Utilities Commission

Mr. Dave Creasy, Water Engineer
North Carolina Utilities Commission

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